

From: [Pooja Parikh](#)
To: [Parikh, Pooja](#)
Subject: Fw: Cook Inletkeeper II....
Date: Tuesday, November 29, 2016 2:12:07 PM

Pooja S. Parikh
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----- Forwarded by Pooja Parikh/DC/USEPA/US on 11/29/2016 02:11 PM -----

From: Pooja Parikh/DC/USEPA/US
To: "Pinkston, Daniel (ENRD)" <Daniel.Pinkston@usdoj.gov>,
Cc: Keith Cohon/R10/USEPA/US@EPA
Date: 10/31/2012 08:21 AM
Subject: RE: Cook Inletkeeper II....

Thanks, Dan -- this looks fine to me as well.

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▼ Svend Brandt-Erichsen ---10/30/2012 07:38:02 PM---This looks fine for me. You are authorized to file on my behalf. <http://www.martenlaw.com/email/im>

From: Svend Brandt-Erichsen <svendbe@martenlaw.com>
To: Vicki Clark <vcclark@trustees.org>, "Pinkston, Daniel (ENRD)" <Daniel.Pinkston@usdoj.gov>, Pooja Parikh/DC/USEPA/US@EPA,
Keith Cohon/R10/USEPA/US@EPA
Date: 10/30/2012 07:38 PM
Subject: RE: Cook Inletkeeper II....

This looks fine for me. You are authorized to file on my behalf.



Svend Brandt-Erichsen | Marten Law
1191 Second Avenue | Suite 2200 | Seattle, Washington 98101
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From: Vicki Clark [<mailto:vclark@trustees.org>]
Sent: Tuesday, October 30, 2012 4:24 PM
To: Pinkston, Daniel (ENRD); Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

I saw that, too. I put it in the pleading, in case you'd like to give it a last read.
Vicki

Victoria Clark
Legal Director
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(907) 276-4244 x 110

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From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]
Sent: Tuesday, October 30, 2012 2:22 PM
To: Svend Brandt-Erichsen; Vicki Clark; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

I see that I had a typo in the second sentence..."regulations" should probably just be "regulation."

From: Svend Brandt-Erichsen [<mailto:svendbe@martenlaw.com>]
Sent: Tuesday, October 30, 2012 4:19 PM
To: Vicki Clark; Pinkston, Daniel (ENRD); Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

I am fine with Dan's rewrite – no edits from me.



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From: Vicki Clark [<mailto:vclark@trustees.org>]
Sent: Tuesday, October 30, 2012 2:02 PM
To: Pinkston, Daniel (ENRD); Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

Hi Dan—

Thanks for the editing. That reads a lot better. I'm happy to get that formatted into pleading form. Any edits, Svend?

Vicki

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From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]
Sent: Tuesday, October 30, 2012 12:55 PM
To: Vicki Clark; Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

Vicki, it seemed to me that the "Background" section got a little convoluted in the chronology. Here is a try at reordering it a bit:

"This is the third joint status report to the Mediator in this petition for review. At this time, the Alaska State court has ruled against plaintiffs (which includes some of the Petitioners here) in their challenge to the Alaska Interim Antidegradation Methods as an unlawful State regulations. The plaintiffs in the State court case are in the process of determining whether to appeal, which will have a bearing on how Petitioners wish to proceed here. The parties therefore jointly request that the Mediator order that they submit another joint status report on or before January 4, 2013.

The background of this matter is as follows. On May 28, 2011, EPA Region 10 re-proposed six effluent limits for produced water discharges under the "National Pollutant Discharge Elimination System ('NPDES') General Permit for Oil and Gas Exploration, Development and Production Facilities in State and Federal Waters in Cook Inlet, Permit No. AKG-31-5000" ("Permit"). 76 Fed. Reg. 28776. These limits in the Permit, among others, were the subject of a prior petition for review in this Court, *Cook Inletkeeper, et al. v. EPA*, No. ____ ("Cook Inletkeeper I"). These particular limits had been remanded back to EPA on the Agency's motion in *Cook Inletkeeper I*. *Cook Inletkeeper I* has since been dismissed on joint motion of the parties there.

On April 26, 2011, before EPA issued the Permit proposal described above, Trustees for Alaska, counsel for Petitioners here, filed an action in State court on behalf of some of the Petitioners and others), challenging the Alaska Department of Environmental Conservation's ("ADEC") adoption of interim antidegradation methods relating to Alaska's water quality standards. On October 20, 2011, ADEC issued a Section 401 Water Quality Certification Antidegradation Analysis regarding the EPA permit re-proposal. On November 7, 2011, EPA took final action adopting the re-proposed six effluent limits for produced water discharges under the Permit. 76 Fed. Reg. 68749. Two weeks later, on November 21, 2011, Petitioners here submitted a request for an adjudicatory hearing to ADEC in order to challenge ADEC's Section 401 Water Quality Certification.

On February 22, 2012, Petitioners *Cook Inletkeeper*, *Cook Inlet Fishermen's Fund*, the Native Village of Nanwalek, the Native Village of Port Graham, and United Cook Inlet Drift Association filed a petition for review of EPA's November 7, 2011, final action. On March 23, 2012, Hilcorp Alaska, LLC, and XTO Energy, Inc., filed an unopposed motion to intervene in the petition for review, which was granted. On March 26, 2012, the parties held a mediation assessment and discussed the history of *Cook Inletkeeper I* regarding the Permit, as well as subsequent actions that could impact the outcome of this petition, such as the pending Alaska state court case challenging ADEC's interim antidegradation implementation methods and the administrative challenge to the Section 401 Water Quality Certification. As a result of those discussions with the Ninth Circuit Mediator, the briefing schedule for the petition for review was vacated and the parties were ordered to submit a joint status report by May 31, 2012. The parties did submit such a report, noting that the State court action and administrative request were still pending. The Mediator, on the request of the parties, ordered that a second status report be submitted by August 2, 2012, which was submitted by email to the Mediator. On that same date, the Mediator ordered the parties to submit a

third joint status report by November 2, 2012.

Since the last joint status report, on September 4, 2012, the State court ruled on cross-motions for summary judgment, deciding that ADEC's adoption of interim antidegradation implementation methods was not unlawful as an illegal regulation under Alaska State law, but had been properly adopted as guidance. The State court has not yet entered final judgment on that case, and plaintiffs in that case are deciding whether to appeal the decision. In the meantime, the request for an administrative adjudicatory hearing before ADEC on the ADEC Section 401 Water Quality Certification remains pending.

The parties therefore jointly request that the briefing schedule remain stayed and that the parties be directed to submit a joint status report to the Mediator on or before January 4, 2013."

Dan

From: Vicki Clark [<mailto:vclark@trustees.org>]

Sent: Tuesday, October 30, 2012 1:04 PM

To: Pinkston, Daniel (ENRD); Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon

Subject: RE: Cook Inletkeeper II....

Here is a proposed joint status report. Let me know if I should change anything. If we can agree on this by tomorrow, I can email it to the mediator. I am leaving the country Thursday, so if final approvals come after that, I'll need someone else to do the emailing.

Thanks!

Vicki

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From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]

Sent: Monday, October 29, 2012 2:01 PM

To: Vicki Clark; Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon

Subject: RE: Cook Inletkeeper II....

Thanks, Vicki...

From: Vicki Clark [<mailto:vclark@trustees.org>]

Sent: Monday, October 29, 2012 3:49 PM

To: Pinkston, Daniel (ENRD); Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon

Subject: RE: Cook Inletkeeper II....

Sorry, I shouldn't assume that everyone knows everything. Yes, we received a decision on summary judgment from the superior court in September. Cam Leonard gave notice of the decision in the 401 appeal, I believe, so I didn't

follow up. Sorry about that. I'm attaching the decision.
Vicki

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From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]
Sent: Monday, October 29, 2012 1:38 PM
To: Vicki Clark; Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

I'm sorry to be ignorant, but has a decision in the state court (or admin process) come down? If so, could you send it along?

Dan

From: Vicki Clark [<mailto:vclark@trustees.org>]
Sent: Monday, October 29, 2012 3:38 PM
To: Pinkston, Daniel (ENRD); Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: RE: Cook Inletkeeper II....

Thanks, Dan. I was going to draft a proposal for review in the next day or so. I am leaving the country for three weeks on Thursday.

The update from here is that we are in the process of discussing the decision in the anti-deg case with our clients. We have some Native clients that are a little tougher to connect with, so it's taking longer than expected. Once we have the decision from them about how to proceed, the plaintiffs in this case will decide how to proceed with this case. I am hopeful that this will all be figured out by the end of November/early December.
Is there anything else that folks would like to address or have questions about?
Vicki

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From: Pinkston, Daniel (ENRD) [<mailto:Daniel.Pinkston@usdoj.gov>]
Sent: Monday, October 29, 2012 1:28 PM
To: Vicki Clark; Svend Brandt-Erichsen; Pooja Parikh; Keith Cohon
Subject: Cook Inletkeeper II....

It looks like we have another status report coming up at the end of this week...thoughts on what we should say?

Dan

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